



Senate

General Assembly

February Session, 2004

File No. 27

Senate Bill No. 53

Senate, March 4, 2004

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

**AN ACT CONCERNING SCARRING AND OTHER DISCRETIONARY
BENEFITS UNDER THE WORKERS' COMPENSATION ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 31-280 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2004*):

4 (a) There shall continue to be a chairman of the Workers'
5 Compensation Commission selected by the Governor as provided in
6 section 31-276. The chairman may not hear any matter arising under
7 this chapter, except appeals brought before the Compensation Review
8 Board and except as provided in subdivision (14) of subsection (b) of
9 this section and subsections (c) and (e) of section 31-308, as amended
10 by this act. The chairman shall prepare the forms used by the
11 commission, shall have custody of the insurance coverage cards, shall
12 prepare and keep a list of self-insurers, shall prepare the annual report
13 to the Governor and shall publish, when necessary, bulletins showing

14 the changes in the compensation law, with annotations to the
15 Connecticut cases. The chairman shall be provided with sufficient staff
16 to assist [him] in the performance of [his] the chairman's duties. The
17 chairman may, within available appropriations, appoint acting
18 compensation commissioners on a per diem basis from among former
19 workers' compensation commissioners or qualified members of the bar
20 of this state. Any acting compensation commissioner appointed under
21 this subsection shall be paid on a per diem basis in an amount to be
22 determined by the Commissioner of Administrative Services, subject to
23 the provisions of section 4-40, and shall have all the powers and duties
24 of compensation commissioners. The Workers' Compensation
25 Commission shall not be construed to be a commission or board
26 subject to the provisions of section 4-9a, as amended.

27 Sec. 2. Subsection (c) of section 31-308 of the general statutes is
28 repealed and the following is substituted in lieu thereof (*Effective*
29 *October 1, 2004*):

30 (c) In addition to compensation for total or partial incapacity or for a
31 specific loss of a member or use of the function of a member of the
32 body, the [commissioner] chairman, not earlier than one year from the
33 date of the injury and not later than two years from the date of the
34 injury or the surgery date of the injury, may award compensation
35 equal to seventy-five per cent of the average weekly earnings of the
36 injured employee, calculated pursuant to section 31-310, after such
37 earnings have been reduced by any deduction for federal or state taxes,
38 or both, and for the federal Insurance Contributions Act made from
39 such employee's total wages received during the period of calculation
40 of the employee's average weekly wage pursuant to said section 31-
41 310, but not more than one hundred per cent, raised to the next even
42 dollar, of the average weekly earnings of production and related
43 workers in manufacturing in the state, as determined in accordance
44 with the provisions of section 31-309, for up to two hundred eight
45 weeks, for any permanent significant disfigurement of, or permanent
46 significant scar on [, (A) the face, head or neck, or (B) on any other area
47 of the body which handicaps the employee in obtaining or continuing

48 to work] any area of the body. The [commissioner] chairman may not
49 award compensation under this subsection when the disfigurement
50 was caused solely by the loss of or the loss of use of a member of the
51 body for which compensation is provided under subsection (b) of this
52 section or for any scar resulting from an inguinal hernia operation or
53 any spinal surgery. In making any award under this subsection, the
54 [commissioner] chairman shall consider (1) the location of the scar or
55 disfigurement, (2) the size of the scar or disfigurement, (3) the visibility
56 of the scar or disfigurement due to hyperpigmentation or
57 depigmentation, whether hypertrophic or keloidal, (4) whether the
58 scar or disfigurement causes a tonal or textural skin change, causes
59 loss of symmetry of the affected area or results in noticeable bumps or
60 depressions in the affected area, and (5) other relevant factors.
61 [Notwithstanding the provisions of this subsection, no compensation
62 shall be awarded for any scar or disfigurement which is not located on
63 (A) the face, head or neck, or (B) any other area of the body which
64 handicaps the employee in obtaining or continuing to work.] In
65 addition to the requirements contained in section 31-297, the
66 [commissioner] chairman shall provide written notice to the employer
67 prior to any hearing held by the [commissioner] chairman to consider
68 an award for any scar or disfigurement under this subsection. The
69 chairman may review recommendations from a commissioner
70 concerning an award for any scar or disfigurement under this
71 subsection, but discretion for determining awards under this
72 subsection shall be vested solely in the chairman.

73 Sec. 3. Section 31-308 of the general statutes is amended by adding
74 subsection (e) as follows (*Effective October 1, 2004*):

75 (NEW) (e) In addition to compensation for total or partial
76 incapacity, or for a specific loss of a member or use of the function of a
77 member of the body, or for significant disfigurement or permanent
78 significant scarring, the chairman may award compensation for the
79 loss of a member or organ or the complete and permanent loss of use
80 of a member or organ not otherwise referred to in subsection (b) of this
81 section. The chairman shall determine the amount and duration of

82 such compensation, taking into consideration (1) the disabling effect of
83 the loss of or loss of function of the member or organ involved, and (2)
84 the necessity of the member or organ or the complete functioning of
85 the member or organ with respect to the entire body, but in no case
86 shall the chairman award more than five hundred twenty weeks of
87 compensation under the provisions of this subsection. The chairman
88 may review recommendations from a commissioner concerning an
89 award of compensation for the loss of a member or organ or the
90 complete and permanent loss of use of a member or organ not
91 otherwise referred to in subsection (b) of this section, but discretion for
92 determining awards under this subsection shall be vested solely in the
93 chairman.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

LAB *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Dept. of Administrative Services - Workers' Comp. Claims	GF - Cost	704,000 - 1,564,000	929,000 - 2,064,000
Children & Families, Dept.	GF - Cost	209,000 - 464,000	453,000 - 1,008,000
Correction, Dept.	GF - Cost	928,000 - 2,062,000	1,145,000 - 2,545,000
Mental Health & Addiction Serv., Dept.	GF - Cost	268,000 - 594,000	365,000 - 812,000
Mental Retardation, Dept.	GF - Cost	475,000 - 1,055,000	687,000 - 1,526,000
Public Safety, Dept.	GF - Cost	100,000 - 222,000	116,000 - 258,000
Dept. of Administrative Services - Workers' Comp. Claims	TF - Cost	151,000 - 335,000	213,000 - 462,000
Treasurer	SIF - Cost	250,000 - 300,000	250,000 - 300,000
Workers' Compensation Com.	WCF - Cost	0	Potential up to 241,000

Note: GF=General Fund; TF=Transportation Fund; SIF=Second Injury Fund; WCF=Workers' Compensation Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Various Municipalities	STATE MANDATE - Cost	Potential Significant	Potential Significant

Explanation

This bill allows the workers' compensation commission chairman, at the chairman's sole discretion, to award compensation for scarring on any body part, and for injuries to body parts not included in statute. This bill will result in significant costs to the state and municipalities. It is a state mandate on municipalities.

It is anticipated that total General Fund workers' compensation

costs will increase from \$2.7 million to \$5.9 million in FY 05, and from \$3.7 million to \$8.2 million in FY 06, as a result of both the scarring and discretionary benefits provisions. The total cost to the Transportation Fund is estimated from \$151,000 to \$335,000 in FY 05, and from \$213,000 to \$462,000 in FY 06.

The bill allows for compensation for scarring and disfigurement to any area of the body, which is anticipated to increase workers' compensation costs 1.5% to 2%. This would increase General Fund workers' compensation costs \$894,000 to \$1.2 million in FY 05, and \$1.2 million to \$1.6 in FY 06.

The discretionary benefits provision of the bill is estimated to increase workers' compensation costs 3% to 8%. This would increase General Fund workers' compensation costs \$1.8 million to \$4.7 million in FY 05, and \$2.4 million to \$6.6 million in FY 06.

This bill would significantly increase the workload of the Workers' Compensation Commission (WCC), and specifically its chairman, who under the bill solely determines scarring awards. The WCC has averaged 479 scar hearings for the past five fiscal years. This bill is expected to increase the number of scar hearings to well over 5,000 per year. The increased number of scar hearings would begin after October 1, 2005 (FY 06), as the bill has an effective date of October 1, 2004 and a scar evaluation cannot be made until one year from the date of the injury or surgery from which the scar occurs.

The WCC will require an additional support staff position in FY 06 to assist the chairman in handling the increased number of scar hearings. This additional position is anticipated to have a salary of \$40,000, plus fringe benefits.

The WCC may also need an additional commissioner in FY 06 to handle the responsibilities and duties the chairman may not be able to manage, such as day-to-day administrative functions and hearing dockets in the eight district offices, if the chairman is required to preside over a significantly high number of scar hearings. An

additional commissioner would have a salary of approximately \$125,000, plus fringe benefits.

This bill's impact to the Second Injury Fund is estimated to be between \$250,000 and \$300,000 annually. It is estimated that the indemnity portion of the a) new current employment claims and b) uninsured or bankrupt employer claims will increase by 5%. The second injury claims and COLA claims will not be affected.

OLR Bill Analysis

SB 53

AN ACT CONCERNING SCARRING AND OTHER DISCRETIONARY BENEFITS UNDER THE WORKERS' COMPENSATION ACT**SUMMARY:**

This bill expands workers' compensation law to provide, at the sole discretion of the Workers' Compensation Commission chairman, compensation benefits for (1) scarring on any body part and (2) injuries to body parts not included in statute.

Under current law, a commissioner can award benefits for scarring only (1) on the face, head, or neck, or (2) on any other area of the body which hinders the employee from obtaining or continuing to work. The bill authorizes the chairman to hear cases on scarring and award compensation after considering factors existing in statute (such as the location, size, and pigmentation of the scar).

By law, a person who, in the course of his employment, injures certain parts or functions of the body listed in statute is eligible for up to 520 weeks of workers' compensation benefits, depending on the type of injury and other factors. The bill, in addition, allows the workers' compensation commission chairman to hear cases and award compensation for the loss, or the complete and permanent loss of the use, of an unlisted body part. The chairman must consider the following in determining the amount and duration of the compensation: (1) the disabling effect of the loss and (2) the necessity of the body part or its complete functioning. The commissioner can grant up to 520 weeks of benefits.

The bill also allows the chairman to consider commissioner recommendations concerning awards in cases of scarring or injury to unlisted body parts.

EFFECTIVE DATE: October 1, 2004

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Report
Yea 11 Nay 2